

REPORT FOR: CABINET

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| Date of Meeting: | 11 October 2012 |
| Subject: | Academy School Conversions |
| Key Decision: | Yes [Impacts on all Wards] |
| Responsible Officers: | Catherine Doran, Corporate Director of Children and Families Andrew Trehern, Corporate Director of Place Shaping |
| Portfolio Holders: | Councillor Brian Gate, Portfolio Holder for Children, Schools and Families Councillor Thaya Idaikkadar, Deputy Leader of the Council and Portfolio Holder for Property and Major Contracts |
| Exempt: | No |
| Decision subject to Call-in: | Yes |
| Enclosures: | None |

Section 1 – Summary and Recommendations

Academy schools and free schools are part of the Government's policy to improve standards and increase choice for parents. There are now 9 academies in Harrow and one free school. There are cross-council implications for the conversion process and this report sets out proposals to manage future academy school conversions.

Recommendations:

Cabinet is requested to:

1. Agree the Council's position statement on academy schools and free schools;
2. Delegate authority to the Corporate Director of Children and Families in consultation with the Portfolio Holder for Children, Schools and Families to negotiate and sign a Commercial Transfer Agreement (CTA) with the school/sponsor in relation to assets, third party contracts, staffing and information transfer when schools convert to academy status;
3. Delegate authority to the Corporate Director of Place Shaping in consultation with the Portfolio Holder for Property and Major Contracts to determine the terms of the land transfer based on the model 125 year lease issued by the Department for Education (DfE), including the extent of the school premises and licences for land outside of the lease arrangements;
4. Delegate authority to the relevant Corporate Director to negotiate and enter into contract for services with academies and out of Borough schools in accordance with the position statement.

Reason: (For recommendation)

In accordance with the Government's policy, it is expected that more schools in Harrow will consider and convert to academy school status. This report will ensure that the Council is able to manage conversions efficiently.

Section 2 – Report**Introduction**

1. Schools and proposers in Harrow have been receptive to the Government's academy schools and free school programmes. Since August 2011, there have been 9 academy conversions in Harrow, 7 community high schools converted on 1 August 2011, one voluntary aided secondary school on 1 August 2012 and one voluntary aided primary school on 1 September 2012. One community primary school is working with a sponsor to convert to academy status at a timescale yet to be decided.
2. In addition, one all through free school, Avanti House opened in temporary locations in Harrow in September 2012. The DfE

announced a further free school, the Jubilee Academy, will open in Harrow in September 2013.

3. The conversion of schools to academy school status and the opening of new free schools has had considerable impact across the Council and to the community of schools. There is growing experience of the process for different types of academy conversion including voluntary aided school conversion and sponsored academies.
4. In anticipation of further conversions and free school proposals, this report sets out the Council's position in relation to the academies programme and proposes the approach to any future school conversions to academy status.
5. The proposed approach will contribute to the Council achieving its corporate priorities:
 - United and involved communities: A Council that listens and leads
 - Supporting and protecting people who are most in need

Options considered

6. For the 7 high school conversions, authorities were delegated to the Corporate Directors of Place Shaping and Children's and Families in conjunction with Portfolio Holders and for Property and Major Contracts and for Children, Schools and Families respectively to enable the land and transfer agreements to be entered. Rather than present reports to Cabinet for each individual conversion it is proposed, that Cabinet agree the delegations for any future conversions. If there are matters that are not resolved within the delegations then a report would be presented to Cabinet.
7. It is also proposed that the Cabinet agree a common approach to a number of matters to inform any future conversions. The approach is informed by the Council's position statement in relation to academy schools and supported by its approach to service level agreements; land and asset matters; children's centres, and pension employer contributions.

Why a change is needed

8. Given the Government's policy to encourage schools to convert to academy status, it is expected that more schools will convert over time at different times and will be both converter and sponsored academies.
9. An established cross council officer group ensures a corporate approach is adopted to support academy school conversions as there are council wide implications. This is particularly, but not exclusively, where the local authority is the land owner and the staff employer. There are specific service impacts depending on whether there is continued service provision. There are other matters that will arise in relation to individual schools, for example the location of a Children's Centre.

10. The proposed delegations informed by the Council's position statement and established approaches to wider matters will ensure a consistent, effective and timely approach is adopted to future conversions. The reduction of reports to Cabinet will be a more efficient use of resources. Updates on academy conversions will be included in quarterly monitoring reports to Cabinet.

Council's Position Statement on Academy Schools

11. The following statement informs the Council's strategic approach to working with schools converting to academy school status.
12. The Council's aspiration is for all schools to be members of the family of schools in Harrow and at the heart of their community. The Council will support all schools, regardless of their status, and work in partnership with them for the best interests of the community of Harrow.
13. In addition:
 - The Council will encourage all schools to work closely together in the best interests of Harrow people, residents, carers and students.
 - Fair and transparent school admissions arrangements are important to Harrow parents for all schools. Harrow will seek to ensure that all admission arrangements following the School Admissions Code have these characteristics and that all schools contribute to and participate in the fair access protocol.
 - Harrow is committed to securing sufficient high quality school places for all Harrow children and expects all schools to contribute to this provision.
 - Elected members are committed to high quality learning opportunities for all Harrow pupils whatever their abilities or disabilities and expect all schools to contribute to providing these opportunities.
 - As democratically elected representatives the council will seek to be actively involved in supporting any new academy schools and will seek to appoint local authority governors.
 - To ensure high quality education provision the Council will hold all schools publicly to account for outcomes for the borough's young people and will seek to secure data-sharing agreements to enable this.
 - The Council will work with Governing Bodies to ensure that due diligence is exercised in considering academy school status and will work with proposers seeking to establish new academy schools in the interests of Harrow's communities.
 - The Council will encourage fair and wide consultation as part of the process to establish an academy school whether a new school or a converted school.
 - As an experienced and value for money provider of services for schools the council will work with academy schools to explore service provision opportunities.

14. This statement will also inform the approach the Council will adopt to any proposed free schools in the Borough.

Land and Asset Issues

15. In the event that any school does decide to become an academy school, the Academies Act (and related guidance) requires the Local Authority, the transferring school and the new Academy Trust to enter a transfer agreement. The Department for Education (DfE) has provided a model document which covers issues such as transfer of non-land assets, contracts, staff and information as well as issues around warranties and indemnities expected in the transfer of a sizeable going concern.
16. The DfE has also provided a model 125 year lease to transfer the school premises, as defined by the Act. The Act requires the Local Authority to transfer any land and buildings used exclusively by the school. In the event that the school and the Local Authority cannot agree on the terms of the lease, including the extent of the school premises, the Secretary of State has power to compel the transfer of land.
17. As part of the transfer process of a school on council owned land, Legal Services will prepare site constraints reports for each school which will be used to decide on the land to be transferred in consultation with the schools.
18. For the purpose of clarity, should Governing Bodies consider academy status and then decide not to transfer, then the authority given by Cabinet will be voided and those schools remain maintained schools as at present.
19. In order to enable officers to progress with the necessary work and negotiations, Cabinet authority is sought prior to the schools making final decisions. It is proposed that delegated authority is given to Corporate Directors in consultation with relevant Portfolio Holders to deal with site specific issues arising on a school-by-school basis. By way of illustration, the type of local level land issues anticipated to arise for each school might include shared land use, community uses, access ways, how to deal with any caretakers houses, licences to use off site playing fields, children's centres, additional provision for SEN and dealing with any restrictive covenants on the land.
20. This delegation will enable the Council to enter into 125 year lease based on the DfE's model lease.

Service Level Agreements

21. The Council has considerable expertise in providing specialist services to schools on a not for profit basis, sharing the benefits of increased economy of scale with all of our customers. The Council is committed to maintaining a relationship with schools whatever their status and providing services. However, there are implications for council provided services when schools transfer to academy school status and

it is important to ensure that the financial interests of both parties are protected.

22. In general it is expected short-term SLAs will be considered where conversion is due on a set date part way through the year providing delivery costs can be altered accordingly. Minor costs associated with the transfer of schools to academy status will be borne within normal operating budgets as would be the case when providing services to any organisation.
23. The specific terms upon which services are provided to any converting school will be determined by the relevant Director for the service. The following principles will apply to set-up costs and rebates.

Set-up costs

24. Where large or considerable set-up costs will be incurred by the Council for transferring academies and it is clear that these are not part of business as usual, it is proposed that one of two approaches below be adopted;
 - any set-up costs are calculated and communicated as an element of early discussions and that these are charged to schools before work starts, or
 - set-up costs are calculated and agreed in advance and are repaid over the term of a specific contract put in place for these provisions
25. Services with considerable set-up costs would include Payroll, HR and others where the service specification requires amendments to IT systems.

Rebates

26. Harrow Council will not provide refunds or rebates for services that are de-commissioned part-way through the year.
27. If the service is one that cannot be provided to an Academy, the Council will consider a rebate but will not be able to provide a rebate where costs are already committed for the whole term of the agreement.
28. If the Council is forced to bear costs that are beyond the delivery of the SLA as a result of conversion, these will be charged to the schools in question. In dealing with the academy transfer, potential costs will be communicated at an early stage to ensure that all parties are aware of respective requirements and that any need for expenditure or contracts is understood at an early point in the process. This may create work in the short-term for both parties, but will avoid risks, doubt and costs in the medium to long term and protect the interests of all parties.
29. There may be opportunities for services to be provided to schools in areas outside Harrow, enabling Harrow to become a centre of excellence for particular services. Where these services can be

provided in accordance with the position statement and provide economy of scale savings, the recommendation is for the relevant Corporate Director to have delegated authority to negotiate and enter into contractual arrangements for services.

Children's Centres

30. There are currently 16 Children's Centres in Harrow providing a range of early education, care and support services to young children and their families. In 2012, the Centres are organised into 4 hubs and the staff team are aligned to the Children's Services operating model. The Centres are central to the Children's Services operating model and contribute to the delivery of Children's Services priorities for health prevention, narrowing the gap, safeguarding and early intervention.
31. Some centres are located on primary school sites and there are service level agreements with the schools. In the event that schools with Children's Centres convert to academy status, there will need to be consideration of the most effective approach to secure the continuation of services to the community. There will also need to be consideration of the lease arrangements. These will be on a school by school basis and will be informed in part by the location of the Children's Centre on the school site.

Pensions and Employer Contributions

32. A report was considered by the Licensing and General Purposes Committee on 10 July 2012 to establish a common approach in setting Local Government Pension Scheme (LGPS) employer contribution rates. The Committee agreed that it would adopt the same approach applied by the Council to the seven academy high schools converted on 1 August 2011:
 - Schools that apply for academy status will not be pooled with Harrow Council
 - A separate employer contribution rate for each academy be established
 - No stabilisation of contributions to be applied
 - A deficit recovery period of 20 years to be used to recover the share of the deficit allocation to each academy school
 - The 20 year recovery period to only be applicable for as long as the academy or DfE did not give notice of exiting its status
 - On receiving 7 years notice of exiting academy status the outstanding deficit be spread over the remainder of the notice period and the contribution rate be recalculated with effect from the start of the following financial year
 - The committee to reserve its position regarding the actuarial basis to be used for the recalculation.

Financial Implications

33. Currently Harrow schools are funded from the Dedicated Schools Grant (DSG) which is allocated to the Council based on pupil numbers. The majority of this funding is passed to schools; however £11.9m is

retained to fund central expenditure budgets, mainly specialist Special Educational Needs (SEN) provision.

34. Academies are funded directly from central government. An Academy will continue to receive its current school budget; however they will get additional funding, known as Local Authority Central Spend Equivalent Grant (LACSEG), to take account of the new responsibilities which they take on from the Local Authority. The conversion of schools to academies have the following financial implications:

- Clawback of Dedicated Schools Grant

Academies receive their funding directly from the Education Funding Agency (EFA). To enable the EFA to make these payments the DfE reduces the DSG allocated to the Council. Currently the DfE also claws back a proportion of centrally retained DSG in order to partly fund the LACSEG funding given to the Academies. Statutory changes to school funding, effective from 2013/14, restricts the DSG that the Council can retain for central services. Consequently all the funding for these services has to be passported to schools, negating the need for the DSG clawback.

- Implications for services provided to schools through SLAs

As detailed above, the Council currently provides services to schools through a range of SLAs. If schools cease to purchase Council services there is a potential loss of income which will have both budget and service implications for the Council, especially where the Council employs staff to provide these services. Experience to date suggests that the position varies between services depending on take up rates and the ability of services to reduce costs. There may be opportunities for services to be provided to schools outside Harrow which may generate an income stream to support these services going forward.

35. The Council receives funding through its general formula grant to fund certain school services such as school asset management, statutory and regulatory duties and certain education welfare services. The government are currently consulting on how funding for these services should be allocated to local government and academies from April 2013. The proposals would result in the Council losing formula grant in respect of pupils in academies which would impact on overall council resources. This risk is being managed as part of agreeing the Medium Term Financial Strategy.

Performance Issues

36. Responsibility for school improvement and attainment transfers to the academy school on conversion. However, the local authority will retain a responsibility for overall performance in the local area and will work in partnership with all local schools to achieve this.

Environmental Impact

37. There are no specific environmental impacts regarding the transfer of the schools to academy status. From the date of transfer the schools will be responsible for the management of the site which the Council

would expect that they would continue on a responsible environmental basis.

38. It should be noted that under current regulations, the Council retains responsibility for the carbon emissions of Academies under the Carbon Reduction Commitment – Energy Efficiency Scheme (CRC). The Department of Energy and Climate Change (DECC) has consulted on simplifying the CRC scheme but it is not clear what will be in the final proposals.
39. At present there are no plans to include Academies in the Council's RE:FIT (energy efficiency) programme. However, if local authorities do retain responsibility for emissions from Academies, under CRC, the Council will need to consider how it will work with them to reduce their emissions.

Risk Management Implications

40. Risk included on Directorate risk register? Yes
41. Separate risk register in place? No
42. A risk register or issues log will be established for each transfer accordingly.

Equalities implications

43. Was an Equality Impact Assessment carried out? No
44. There are potential equalities implications in terms of service provision once schools have become academy schools (in issues such as admissions, exclusions and special needs for example) as well as the potential equalities implications in relation to any staff transfer. The Council and schools will work together closely to ensure that equality issues are identified and that Governing Bodies are made aware of these before making a final decision.

Corporate Priorities

45. This report contributes to the Council priorities:
 - United and involved communities: A Council that listens and leads.
 - Supporting and protecting people who are most in need.

Section 3 - Statutory Officer Clearance

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|-------------------------|--------------------------|---|
| Name: Emma Stabler | <input type="checkbox"/> | on behalf of the Chief Financial Officer |
| Date: 18 September 2012 | | |
| Name: Sarah Wilson | <input type="checkbox"/> | on behalf of the Monitoring Officer |
| Date: 12 September 2012 | | |

Section 4 – Performance Officer Clearance

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| Name: David Harrington | <input type="checkbox"/> | on behalf of the Divisional Director Partnership, Development and Performance |
| Date: 12 September 2012 | | |

Section 5 – Environmental Impact Officer Clearance

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| Name: Andrew Baker | <input type="checkbox"/> | on behalf of the Divisional Director (Environmental Services) |
| Date: 12 September 2012 | | |

Section 6 - Contact Details and Background Papers

Contact: Johanna Morgan, Education Professional Lead, Education Strategy and School Organisation, 020 8736 6841

Background Papers:

Report to Cabinet 7 April 2011, Potential Conversion of Harrow's High Schools to Academy Status – Land and Assets Issues

Report to Licensing and General Purpose Committee, 10 July 2012, Academies – Employer Contribution Rates,

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APLICABLE

[Call-in applies]